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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/696,373

10/29/2003

Gregory Winfield Gorman

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06/26/2008

LATHROP & GAGE LC  
4845 PEARL EAST CIRCLE  
SUITE 300  
BOULDER, CO 80301

EXAMINER

CHEVALIER, ALICIA ANN

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

06/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/696,373	GORMAN, GREGORY WINFIELD	
	<b>Examiner</b>	<b>Art Unit</b>	
	ALICIA CHEVALIER	1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8,21,22 and 25-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6,8,21,22 and 25-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## RESPONSE TO AMENDMENT

1. Claims 1-3, 5, 6, 8, 21, 22 and 25-32 are pending in the application, claims 4, 7, 9-20, 23 and 24 have been cancelled.

### ***REJECTIONS***

2. **The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

### ***Claim Rejections - 35 USC § 102***

3. Claims 1, 5 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker (U.S. Patent No. 5,323,652).

Parker discloses a symbol-bearing receptacle for a fluid (*propane tank and indicator, col. 3, lines 9-10*), said receptacle comprising: a container for said fluid (*propane take, col. 3, lines 9-10*); and a transparent symbol (*col. 3, lines 22-23*) disposed on said container (*figure 1*), the symbol is deemed to have a water reactivity that differs from water reactivity of the container, since they are made of different material, e.g. thermochromic material versus non-thermochromic material; wherein the difference in water reactivities renders said symbol visually distinct from said container when said container holds said fluid and when a temperature of said container is reduced to a condensation point (*col. 3, lines 48-68*). The container comprising an open fluid receptacle formed of a base disposed upon a substrate and a wall affixed to and extending upwardly from said base; and a transparent symbol disposed on said base and facing said substrate (*figure 1 and col. 3, lines 5-10*).

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4. Claims 1-3, 5 and 6 are rejected under 35 U.S.C. 102(e) as being anticipated by Arora (U.S. Patent No. 7,048,971).

Arora discloses symbol-bearing (*title*) receptacle (*LCD*) for a fluid (*liquid crystals, col. 12, lines 51-57*), said receptacle comprising a container for said fluid (*col. 12, lines 51-57*); and a transparent symbol (*col. 2, lines 32-37*) disposed on said container, said symbol having a water reactivity that differs from water reactivity of said container (*col. 3, lines 13-42*); wherein the difference in water reactivities renders said symbol visually distinct from said container when said container holds said fluid and when a temperature of said container is reduced to a condensation point (*col. 4, lines 23-26*). The symbol is hydrophilic and said container is hydrophobic or the symbol is hydrophobic and said container is hydrophilic (*col. 3, lines 13-42*). The symbol comprises a plastic silicone film (*col. 5, line 10*).

#### ***Claim Rejections - 35 USC § 103***

5. Claims 8, 21, 22 and 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arora (U.S. Patent No. 7,048,971) in view of Hornsby, Jr (U.S. Patent No. 4,032,687) and Parker (U.S. Patent No. 5,323,652).

Arora is relied upon as described above.

Arora fails to disclose that the symbol is embedded in a surface of the container, the container comprising an open fluid receptacle formed of a base disposed upon a substrate and a wall affixed to and extending upwardly from said base, container comprising a confined passageway, etc.

Hornsby and Parker disclose different types of containers with color changing appliques to indicate the temperature of the different containers.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use Arora's symbol of different types of containers, i.e. the symbol is embedded in a surface of the container, the container comprising an open fluid receptacle formed of a base disposed upon a substrate and a wall affixed to and extending upwardly from said base, container comprising a confined passageway, etc, that need easy visible references to the temperature of the container.

### ***ANSWERS TO APPLICANT'S ARGUMENTS***

6. Applicant's arguments in the response filed August 15, 2007 regarding the previous rejections of record have been considered but are moot in view of the new grounds of rejection.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia Chevalier whose telephone number is (571) 272-1490. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Alicia Chevalier/

Primary Examiner, Art Unit 1794

6/26/2008